

The claimant requests review of whether he sustained accidental injuries on November 18, 2004, December 12, 2004, January 12, 2005, or a series through February 1, 2005, as well as whether timely notice was given or just cause existed to enlarge the time for providing notice.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, the Board makes the following findings of fact and conclusions of law:

Claimant alleged he was injured on November 18, 2004, when he slipped and fell between some roof trusses and managed to catch himself before falling to the ground. During the fall, he injured his back, left shoulder and forearm while trying to grab something to keep from falling, caught himself and then was able to climb back to the roof top. He continued working even though he was having pain. No medical treatment was sought because claimant thought it would go away. On December 12, 2004, claimant was carrying a soffit when he tripped and fell hitting his left shoulder again. Claimant did not seek medical treatment nor did he notify his employer of either accident. Finally, on January 12, 2005, claimant alleged he again tripped at work and again landed on his left shoulder.

Claimant notified his employer and finally sought medical treatment for his left shoulder and thumb on February 1, 2005. He described injuring his shoulder in the fall on November 18, 2004. When asked to write out a description of his injury the claimant merely mentioned the alleged November 18, 2004 incident.

The claimant is required to provide notice of a work-related accident to the respondent within 10 days or show just cause to extend the notice requirement to 75 days.¹ The claimant did not provide respondent notice of his three alleged accidents until February 1, 2005. He clearly failed to provide notice within 10 days.

Notice may be extended to 75 days from the date of accident if claimant's failure to notify respondent under the statute was due to just cause. In considering whether just cause exists, the Board has listed several factors which must be considered:

- (1) The nature of the accident, including whether the accident occurred as a single, traumatic event or developed gradually.
- (2) Whether the employee is aware he or she has sustained an accident or an injury on the job.
- (3) The nature and history of claimant's symptoms.
- (4) Whether the employee is aware or should be aware of the requirements of reporting a work-related accident and whether the respondent had posted notice as required by K.A.R. 51-13-1.

¹ See K.S.A. 44-520.

The claimant alleged single traumatic events on each specific accident date and was clearly aware that the alleged injuries occurred on the job. Finally, as a foreman on the construction crew claimant should have been aware of the requirement for promptly reporting a work-related accident. The claimant has failed to establish there is just cause to extend the time to provide notice to 75 days. The ALJ's determination claimant failed to provide timely notice of the November 18, 2004, December 12, 2004, and January 12, 2005, alleged accidents nor just cause for enlargement of the notice period is affirmed.

WHEREFORE, it is the finding of the Board that the Order of Administrative Law Judge Bruce E. Moore dated June 3, 2005, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of July 2005.

BOARD MEMBER

c: Lawrence M. Gurney, Attorney for Claimant
Roy T. Artman, Attorney for Respondent and its Insurance Carrier
Bruce E. Moore, Administrative Law Judge
Paula S. Greathouse, Workers Compensation Director